

U.S. BANKRUPTCY COURT

WESTERN DISTRICT OF WISCONSIN

Honorable Rachel M. Blise

February 8, 2024

Court Proceeding Memo and Order

1-22-11558-rmb Jennifer McKinney and Israel R. McKinney Chapter 13
Trustee: Mark Harring

Appearances: Wade Pittman, Attorney for Debtors
Theresa M. Anzivino, Attorney for the IRS
Leslie Brodhead Griffith, Attorney for the Chapter 13 Trustee

Matter: Preliminary hearing on Confirmation of Amended Chapter 13 Plan (Doc # 161)
-Obj trustee (Doc # 162) -Obj IRS (Doc # 164)

Outcome: Objection sustained; confirmation denied. On or before February 22, 2024, the debtors shall file an amended plan.

Court Minutes and Order: Counsel for the trustee reported that the trustee would recommend confirmation if the debtors could provide proof of their ability to make the increased payments called for by the plan. Counsel for the debtors indicated that an amended plan would be filed shortly and that the debtors could provide the requested information. Counsel for the IRS stated the only basis of its objection was that the plan did not include language requiring the debtors to timely pay all post-petition taxes. Counsel for the debtors confirmed the amended plan would include the desired language.

The Court pointed out that the treatment of the IRS's claim seemed more akin to a cure and maintain provision under § 1322(b)(5), with maintenance payments being remitted through the trustee, than a pay in full provision. The Court suggested the debtors amend the plan to clarify the treatment of the claim. The Court verified with counsel for the trustee that attorney's fees had not yet been paid to debtors' counsel, and the debtors' counsel confirmed that a fee application would be filed after confirmation.

The Court sustained the objection to the amended plan and denied confirmation. The debtors shall file an amended plan on or before February 22, 2024.

IT IS SO ORDERED for the reasons stated on the record.



Rachel M. Blise

U.S. Bankruptcy Judge

Service:
ECF participants